IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8698 of 1999
with
Special Civil Application No.8713 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAHALAXMI FABRICS MILLS PVT. LTD.

Versus

SOCIAL CO.OP. BANK LTD

Appearance:

1. Special Civil Application No. 8698 of 1999

MR AK CLERK for Petitioner No. 1

..... for Petitioner No. 2

MR RAVINDRA SHAH for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 1

RULE UNSERVED for Respondent No. 2,8-9

..... for Respondent No. 3,6

SERVED BY AFFIX.-(R) for Respondent No. 3/1-5,6/1-7

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 29/08/2002

ORAL JUDGEMENT

1. By filing the aforesaid petitions, the petitioners have challenged the order passed by the Board of Nominee dated 30.4.1998 and 5.10.198, by which the Board of Nominees issued witness summons against the present petitioners who are defendants Nos.6 and 7 in Lavad Suit No.2917 of 1986 and defendants Nos. 7 and 8 in Lavad Suit No.2915 of 1986.

2. The contention of the petitioners in these petitions is that no witness summons was required to be issued to the petitioners and it was not necessary to examine them as witnesses. Initially, this Court granted stay against the execution and operation of the aforesaid orders, by which witness summons were issued to the petitioners. Subsequently, this Court, while confirming the aforesaid interim order, allowed both the aforesaid arbitration suits to be proceeded on merits expeditiously.

3. Today, at the time of hearing of these Special Civil Applications, Mr.Clerk, learned Advocate who is appearing for the original petitioners, as well as Mr.Ravindra Shah , who is appearing for Respondent No.1, state that both the aforesaid Lavad Suits are decided and, therefore, these petitions have become infructuous, especially when there is no question of examining witnesses since the main suits are disposed of.

4. Mr.Clerk also further submitted that there was another suit, being Lavad Suit No.2916 of 1986, and that suit is dismissed so far as the present petitioners are concerned.

5. In view of the subsequent development, in my view, it is not necessary to adjudicate the petitions on merits as the petitions have become infructuous in view of the fact that the suits themselves have been disposed of and, therefore, now, it is not necessary to examine the petitioners as witnesses in the pending suits. In that view of the matter, nothing further is required to be done in these matters. Both these petitions are disposed of as having become infructuous. Rule is discharged Ad interim relief is vacated with no order as to costs.

Liberty to apply in case of difficulty.

29th August, 2002 (P.B. Majmudar, J.)

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(apj)